

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 2:19-cr-20652
Hon. David M. Lawson

PATRICIA FLANNERY,

Defendant.

_____ /

UNOPPOSED MOTION TO EXTEND REPORTING DATE

NOW COMES PATRICIA FLANNERY, Defendant herein, by and through her attorney, Mark J, Kriger, and moves this Honorable Court for the entry of an order extending the time by which she is to report to the institution to begin service of her sentence until a date after the trial of *United States v. Katherine Peterson*, now scheduled for June 24, 2024, and in support of said motion says as follows:

1. She entered a guilty plea in this case, was sentenced, on June 27, 2023, to serve a term of a year and a day in custody, and is scheduled to report to the institution designated for service of that sentence (the Satellite Camp at FCI Danbury, Conn.) on January 2, 2024.

2. She has also agreed to cooperate with the government, and expects to appear as a witness for the government at the trial of her co-defendant Katherine Peterson,

whose case was previously severed from hers, and transferred to the United States District Court for the District of New Jersey, where it is pending under Docket No. 22-621 (MAS); while that trial was previously set for October 16, 2023, on October 12 it was adjourned to June 24, 2024.

3. Once Ms. Flannery gives testimony at Ms. Peterson's trial, the government (which previously filed a request for a downward departure pursuant to U.S.S.G. § 5K1.1 following her testimony at the trial of the co-defendant Steven King), the Government has stated it may file a motion for further reduction of her sentence, pursuant to F.R.Cr.P. Rule 35(b).

4. In the event, Ms. Flannery's testimony will not be necessary, undersigned counsel will immediately notify the Court and request that her report date be moved up.

5. However, if Ms. Flannery is required to report as currently scheduled, she will in all likelihood have served essentially all of the custodial portion of her sentence before the government will be in a position to file its Rule 35(b) motion, rendering any such motion essentially nugatory.

6. In addition, if Ms. Flannery is still in custody at the time of Ms. Peterson's trial, she will in all likelihood be required to endure the rigors of being transported

to this District to testify, in shackles and chains, with stops in county jails, under oppressive conditions of confinement.¹

7. Therefore, the interests of justice would best be served if her sentencing were delayed until after Ms. Peterson's trial.

8. Counsel has conferred with Assistant United States Attorney Shankar Ramamurthy, who has authorized him to represent that the government does not oppose the grant of relief herein sought and defers to the Court's discretion in granting the relief requested.

WHEREFORE, defendant respectfully prays that this Honorable Court enter an Order extending the time by which she is to report to the institution to begin service of her sentence until a date after the trial of *United States v. Katherine Peterson*, now scheduled for June 24, 2024.

Respectfully submitted,
s/Mark J. Kriger
Attorney for Defendant Flannery
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DATED: November 17, 2023

¹ Although the Bureau of Prisons nominally allows for the granting of furloughs to allow some persons in custody to travel for purposes of legal appearances, *see, generally*, Bureau of Prisons Program Statement 5280.09, "Inmate Furloughs," it is counsel's experience that such furloughs are rarely employed.

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**MEMORANDUM BRIEF IN SUPPORT OF
MOTION TO EXTEND REPORTING DATE**

Question presented: Whether Ms. Flannery's reporting date should be extended so that she can complete her cooperation with the government?

Principal authority. *United States v. Colomb*, 419 F.3d 292, 299 (5th Cir. 2005).

As noted in the motion in support of which this memorandum is written, it is anticipated that if Ms. Flannery is required to report to begin service of the custodial portion of her sentence before giving testimony at the trial of the co-defendant Katherine Peterson, she is likely to have served so much of that sentence as to render the anticipated Rule 35(b) motion to further reduce that sentence based on her anticipated testimony essentially moot. As the motion also notes, in the alternative, if Ms. Flannery is still in custody at the time of the Peterson trial, her appearance as

a witness will likely be attended by unnecessarily harsh conditions of transportation and confinement which, in essence, will result in punishing her for her cooperation rather than rewarding her.

Accordingly, defendant contends - and the government does not disagree - that the interests of justice would best be served if her sentencing were delayed until after Ms. Peterson's trial.

As the Fifth Circuit noted in *United States v. Colomb*, 419 F.3d 292, 299 (5th Cir. 2005), “[a] district court has inherent power ‘to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.’” (quoting *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936)). The Court unquestionably has the discretion to grant the defendant’s request, and counsel would suggest that it should do so in the informed exercise of that discretion.

Respectfully submitted,

s/Mark J. Kriger
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CERTIFICATE OF SERVICE

I hereby certify that on November 17, 2023, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send notification of such filing to all counsel of record.

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